



D-1116 R1 CIP

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of)	
Hanna, et al.)	
)	
Application No.: 10/621,433)	Art Unit 3693
)	
Confirmation No.: 1731)	
)	
Filed: July 16, 2003)	Primary Examiner
)	Jocelyn Greimel
)	
Title: Automated Banking)	
Apparatus and Method)	

Mail Stop AF
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the final Office Action dated November 2, 2007, kindly enter Applicants'
"Request For Withdrawal Of Premature Final Rejection" without prejudice as follows:

Request For Withdrawal Of Premature Final Rejection

Applicants respectfully submit that the final rejection should be withdrawn as it is premature and legally improper. The Office did not take into consideration all pending claims, especially claims presented in the Amendment dated October 5, 2007. Thus, the final rejection is *prima facie* premature.

The following dates and papers are associated with this application:

1. 08/07/2007 1st Final rejection
2. 10/05/2007 Amendment after final rejection
3. 11/02/2007 2nd Final rejection

With regard to the 10/05/2007 Amendment, the 2nd Final rejection states (at page 2, first paragraph) that "The newly submitted amendments will not be entered". Yet the Office provides no legal basis for denying entry of the 10/05/2007 Amendment. Nor can it. Nor does the Office's PAIR system indicate that entry thereof was denied or that the required form PTOL-303 (Advisory Action) was used by the Office.

MPEP § 706.07(e) makes clear that if the 1st Final rejection is withdrawn, which had to occur in order to make the 2nd Final rejection, then all prior amendments (which includes the 10/05/2007 Amendment) filed in response to the 1st Final rejection are entitled unhindered entry. Thus, Applicants respectfully request that their 10/05/2007 Amendment be rightfully entered.

Furthermore, the grounds of rejection set forth in the 1st Final rejection differ from those in the 2nd Final rejection. It is well settled that the Office cannot change rejections while keeping prosecution closed. Yet this is the current situation due to the Office's denied entry of the 10/05/2007 Amendment. How could the new ground of rejection in the 2nd Final rejection meet the requirement of having been "necessitated by applicant's amendment of the claims" (MPEP § 706.07(a)) if entry of their 10/05/2007 Amendment was denied? It can't.

The Office is committing prejudicial error by depriving Applicants of their administrative due process rights, i.e., timely notice of the Examiner's position and opportunity for unhindered response thereto. Applicants have not been given an opportunity in accordance with 37 C.F.R. 1.111 to properly rebut the Office's newly imposed ground of rejection.

Applicants respectfully request that their 10/05/2007 Amendment be rightfully entered.
As the 2nd Final rejection does not take into consideration the claims presented in the
10/05/2007 Amendment, it is a premature final rejection and is legally improper.

Conclusion

Applicants respectfully submit that the finality of the Office Action dated November 2,
2007 should be withdrawn.

Respectfully submitted,



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